

In re Appln. of WORLBY et al.
Application No. 10/674,625

REMARKS

Reconsideration of the application is respectfully requested. An Office action dated September 29, 2005 is presently pending in the application. Claims 1-7 and 8-12 have been amended, Claim 17 has been cancelled, and Claim 23 has been added. Therefore, Claims 1-16 and 18-23 are pending in the application.

The Information Disclosure Statement Filed March 4, 2004

The Office action states that the four page non-patent literature publication "Spring 2004 Camping Gear" was not received with the Information Disclosure Statement filed March 4, 2004. Applicant submitted a copy with the Information Disclosure Statement, but the copy must have been misplaced by the Patent Office. The Information Disclosure Statement included a statement in the certificate of mailing that all of the documents referred to as being attached or enclosed are included in the mailing. A copy of the Information Disclosure Statement is included herewith. In addition, a copy of the return postcard, which was stamped as received by the Patent Office on March 4, 2004, is enclosed herewith. The postcard clearly states that a copy of one cited reference was included, and confirmation of receiving all documents listed was confirmed by the Patent Office.

Applicants respectfully request the Examiner review the timely submitted Information Disclosure Statement that was filed on March 4, 2004, with the additional courtesy copy reference that is attached to this Amendment.

The § 102 Rejection of Claims 1-3, 8-11, and 17-22

Claims 1-3, 8-11, and 17-22 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 6,021,796 to Vavra. Applicant respectfully submits that the amended claims are not anticipated by or made obvious in view of this reference.

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First, with respect to Claim 1, the tent requires a lower portion and an upper portion. The upper and lower portions have been more precisely defined so there is no confusion as to what is meant by the "lower portion." Moreover, applicant has amended Claim 1 to be directed to a tent and rain fly, and has clearly defined the vent as being positioned on the tent. In contrast, the vent 160 in *Vavra* is positioned on a rain fly.

With respect to Claim 2, the Office action takes the position that the vent 160 in *Vavra* discloses a vent 160 that faces downward. Although the vent in that reference may face, to some extent, downward, it does not face primarily downward as is more particularly claimed in amended Claim 2.

With respect to Claim 8, the flexible stay has been more particularly claimed and describes that the stay is biased into a sufficiently stiff arrangement so that the flexible stay supports the upper flap of the vent during use. The Office action takes the position that the strap "168" meets this requirement. A strap does not have the structural integrity to meet the requirements of the claim. Moreover, no elements of *Vavra* meet the description in the claim. The vent 160 in *Vavra* includes stiffeners 163a and 163b which extend along upper front edges of the canopies for the vent 160 of that reference. However, the reference does not show a stay that extends between an upper flap and a lower flap and provides the structural description in Claim 8.

Claim 4 has been intentionally amended to depend upon Claim 8, because Claim 3 further defines the invention of amended Claim 8. The rejection of Claim 4 is addressed below.

Claim 9 has been amended to more particularly point out that the rain fly is a separate structure from the tent. The Office action takes the position that the vent 160 of *Vavra* meets the requirements of Claims 1 and 9. However, it is clear that the vent 160 in the *Vavra* reference is positioned on the top apex of a rain fly, and not on a tent.

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Claim 10 has been amended to more particularly point out that the vent of that claim is a second vent that is adjacent to the apex and on the rain fly. The Office action has taken the position that the vent 160 meets the requirements of both the vent of Claim 1 and the vent of Claim 10. However, it is clear that the vent 160 of *Vavra* does not meet the requirements of both vents.

The § 102 Rejections in view of *Swetish*

Claims 11-12 and 15-22 were rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent Number 6,499,497 to Swetich. Applicant submits that the amended claims are not anticipated by or made obvious in view of the cited reference.

Claim 11 has been amended to more particularly point out the structure of the stay and the arrangement of the upper flap relative to the lower flap. More particularly, the lower flap is described as beginning under the upper flap and extending beyond the upper flap. This arrangement is not the case in *Swetich*, where the "lower flap" is fully contained underneath the "upper flap." Moreover, the stay has been defined to clearly point out that is sufficiently stiff to support the upper flap of the vent during use, but is flexible enough so that the stay may bend, enabling the vent to be collapsible during storage. This is not the case in *Swetish*, where the pole 94 is obviously a rigid pole. In *Swetish*, the pole is moveable, but does not meet the resilient and flexible descriptions included in Claim 11.

With respect to Claim 12, although the Office action takes the position that the fly pole 94 of *Swetish* includes four tubes or sections connected by a bungee cord, those tubes or sections do not meet the structural requirements set forth in Claim 11 of flexibility and stiffness. Moreover, the claims have been amended to point out that the segments are linearly aligned to provide sufficient stiffness, and move relative to one another to allow the vent to collapse. This feature is not how or taught by *Swetish*.

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The Obviousness Rejections of the Claims

Claims 4 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Vavra* in view of *Swetish*. This rejection is respectfully traversed. The rejections of Claims 4 and 6 are similar to the 102 rejections in view of *Swetish* above, and are addressed above. Claims 4 and 6 have been amended similar to the claims in the 102 rejection. Applicant submits that the rejections should be withdrawn for the same reasons.

Claims 5 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Vavra* in view of *Swetish* and further in view of U.S. Patent Number 6,286,531 to Joo-Tai. The rejections with respect to a combination of *Vavra* and *Swetish* have been addressed above, and the *Joo-Tai* reference does not overcome their insufficiencies. Specifically, *Joo-Tai* does not teach the flexibility and resiliency set forth in Claim 4, upon which Claims 5 and 7 depend. Claims 13 and 14 were rejected in a similar manner, and the rejection of those claims should be withdrawn for the same reasons.

For the sake of clarity, the independent claims and some of the dependent claims of the application are discussed in this Amendment. Applicants submit that the independent claims are allowable, and therefore the remaining dependent claims are allowable at least because they are dependent upon allowable claims. Nevertheless, Applicants submit that the remaining dependent claims further define subject matter not shown or made obvious by the prior art.

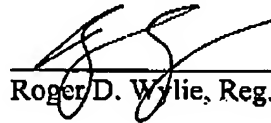
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CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that Claims 1-16 and 18-23 define patentable subject matter, and that the application is in good and proper condition for allowance. Such action is respectfully solicited.

If the foregoing does not result in a Notice of Allowance in the application, Applicants earnestly solicit the Examiner to call the undersigned at 206-521-5984.

Respectfully submitted,



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